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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,988	02/11/2004	Andrew J. Pennella	6579-0002-1	6097
7590 04/20/2005			EXAMINER	
Richard R. Michaud McCormick, Paulding & Huber LLP CityPlace II 185 Asylum Street Hartford, CT 06103			HAMILTON, ISAAC N	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 04/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,988

Applicant(s)

PENNELLA, ANDREW J.

Examiner

Isaac N Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/10/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: "having;" in line 3 should be changed to --having--. Appropriate correction is required.
2. Claim 16 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 16 is a method claim that depends from an apparatus claim. For the purpose of examination, it is assumed that claim 16 depends from claim 15.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, the word "means" is not preceded by any word(s) in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the lack of word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6, 7, 9, 10, 14, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Neuburger (2,447,358). Neuburger discloses razor 20; razor cartridge 36, 37, 38; razor body 11; reservoir means/reservoir 10, 40; interior area is the area inside reservoir means 10, 40; actuator means/actuator 22, 21; non-dispensing position shown in figures 1 and 2; dispensing position is when the element 22 is pushed in; dispensing means 19; reservoir means 10 is integral with razor body 11 as shown in figures 1 and 2; button 22; receptacle 10; aperture 14, 16; outer surface is the outer surface of receptacle 10; plug 17; foam in column 2, line 33; liquid in column 2, line 31; pressure in column 2, line 32; nozzle 19; shaving aid is dispensable from the nozzle onto a user's skin prior to the razor blade contacting the area in column 2, lines 18-25; a user inherently shaves by drawing razor 20 across the user's skin; razor cartridge is releasably mounted in column 2, lines 34-44.

7. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyauchi (3,417,468). Miyauchi discloses razor body 13; reservoir means 3; interior area is surrounded by element 3; shaving aid 4; actuator means 16; non-dispensing position shown in figure 2; dispensing position is when the actuator means 16 is rotated; dispensing means 11;

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reservoir means is integral as shown in figures 1, 2, and 5; liquid 4; foam in column 3, line 38; check valve 21; outer wall is part of reservoir means 3; pressurized container 29.

8. Claims 1, 6, 7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyauchi. Miyauchi discloses razor body 13; reservoir means 3; interior area is surrounded by element 3; shaving aid 4; actuator means 16; non-dispensing position shown in figure 2; dispensing position is when the actuator means 16 is rotated; dispensing means 11; reservoir means is integral as shown in figures 1, 2, and 5; liquid 4; foam in column 3, line 38; receptacle releasably attached in column 4, lines 5-8; outlet 18.

9. Claims 1, 2, 7, 9, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks (5,402,697). Brooks discloses razor body 12; reservoir means 20; interior area 20 holding liquid shaving aid 22; actuator means 50, 52; dispensing position is when the elements 50, 52 are moving up; non-dispensing position is when the elements 50, 52 are stationary; dispensing means 24, 26, 30; receptacle 20 is integral with razor body 12; nozzle 30; shaving aid is dispensable from nozzle after the razor blade 16 passes over an area of a user's skin as recited in column 6, lines 54-61; razor blades 16; gap between blades shown in figure 3; outlet 30; path 28; distributing shaving aid between razor blades in column 5, lines 30-33.

10. Claims 1, 2, 5-7, 9, 10, 15 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Simms (2002/0023351A1). Simms discloses razor 5; razor body 30; razor cartridge 1; reservoir means 3; interior area 21; actuator means 36, 22, 24, 28, 25, 33; dispensing position shown in figure 5; non-dispensing position shown in figure 4; shaving aid in paragraphs [0029]-[0037]; receptacle 19; gel, foam, liquid in column 1, paragraph [001]; nozzle 44; shaving

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aid is dispensed prior to razor blade contacting user's skin in paragraph [0027]; razor cartridge is releasably mounted to the razor body as recited in paragraph [0042].

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simms in view of Brooks. Simms discloses everything as noted above, but does not disclose distributing shaving aid between razor blades. However, Brooks teaches distributing shaving aid between razor blades in column 5, lines 30-33. It would have been obvious to provide distributing shaving aid between razor blades in Simms as taught by Brooks in order to increase the coverage of the shaving aid to the user's skin. Note extended position/closed valve in figure 4 and compressed position/open position in figure 5 of Simms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 13, 2005

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Group 3700